

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 326
House Committee Substitute Favorable 6/30/16
Third Edition Engrossed 6/30/16

Short Title: Local Gov'ts/Bldgs/Structures/Inspections.

(Public)

Sponsors:

Referred to:

March 19, 2015

A BILL TO BE ENTITLED

AN ACT REVISING THE CONDITIONS UNDER WHICH COUNTIES AND CITIES MAY
INSPECT BUILDINGS OR STRUCTURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-364 reads as rewritten:

"§ 153A-364. Periodic inspections for hazardous or unlawful conditions.

(a) The inspection department may make periodic inspections, subject to the board of commissioners' directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its territorial jurisdiction. However, when the inspection department determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the inspection department may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. Except as provided in subsection (b) of this section, the inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. For purposes of this section, the term "reasonable cause" means any of the following: (i) the ~~landlord or owner~~ property has a history of more than ~~two~~ four verified violations of the housing ordinances or codes within a rolling 12-month period; (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected; (iii) the inspection department has actual knowledge of an unsafe condition within the building; or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily ~~buildings~~ buildings or between owner-occupied and tenant-occupied buildings. In exercising these powers, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(b) A county may require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the county commissioners. However, the total aggregate of targeted areas in the county at any one time shall not be greater than one square mile or five percent (5%) of the area within the county, whichever is greater. A targeted area designated by the county shall reflect the county's stated



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1 neighborhood revitalization strategy and shall consist of property that meets the definition of a
2 "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and
3 G.S. 160A-503(2a), respectively, except that for purposes of this subsection the planning
4 commission is not required to make a determination as to the property. The county shall not
5 ~~discriminate in its selection of areas or housing types to be targeted and shall~~ (i) provide notice to
6 all owners and residents of properties in the affected area about the periodic inspections plan and
7 information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the
8 plan; and (iii) establish a plan to address the ability of low-income residential property owners to
9 comply with minimum housing code standards. A residential building or structure that is subject to
10 periodic inspections by the North Carolina Housing Finance Agency (hereinafter "Agency") shall
11 not be subject to periodic inspections under this subsection if the Agency has issued a finding that
12 the building or structure is in compliance with federal standards established by the United States
13 Department of Housing and Urban Development to assess the physical condition of residential
14 property. The owner or manager of a residential building or structure subject to periodic
15 inspections by the Agency shall, within 10 days of receipt, submit to the inspection department a
16 copy of the Compliance Results Letter issued by the Agency showing that the residential building
17 or structure is in compliance with federal housing inspection standards. If the owner or manager
18 fails to submit a copy of the Compliance Results Letter as provided in this subsection, the
19 residential building or structure shall be subject to periodic inspections as provided in this
20 subsection until the Compliance Results Letter is submitted to the inspection department.

21 (c) In no event may a county do any of the following: (i) adopt or enforce any ordinance
22 that would require any owner or manager of rental property to obtain any permit or permission
23 from the county to lease or rent residential real ~~property, property~~ or to register rental property with
24 the county, except for those individual rental units that have either more than ~~three~~ four verified
25 violations of housing ordinances or codes in a rolling 12-month period or two or more verified
26 violations in a rolling 30-day period, or upon the property being identified within the top 40% ~~ten~~
27 percent (10%) of properties with crime or disorder problems as set forth in a local ordinance; (ii)
28 require that an owner or manager of residential rental property enroll or participate in any
29 governmental program as a condition of obtaining a certificate of ~~occupancy; or~~ (iii) except as
30 ~~provided in subsection (d) of this section, occupancy; (iii) levy a special fee or tax on residential~~
31 ~~rental property that is not also levied against other commercial and residential~~
32 ~~properties, properties, unless expressly authorized by general law or applicable only to an~~
33 individual rental unit or property described in clause (i) of this subsection and the fee does not
34 exceed five hundred dollars (\$500.00) in any 12-month period in which the unit or property is
35 found to have verified violations; (iv) provide that any violation of a rental registration ordinance
36 is punishable as a criminal offense; or (v) require any owner or manager of rental property to
37 submit to an inspection before receiving any utility service provided by the city. For purposes of
38 this section, the term "verified violation" means all of the following:

- 39 (1) The aggregate of all violations of housing ordinances or codes found in an
40 individual rental unit of residential real property during a 72-hour period.
41 (2) Any violations that have not been corrected by the owner or manager within 21
42 days of receipt of written notice from the county of the violations. Should the
43 same violation occur more than two times in a 12-month period, the owner or
44 manager may not have the option of correcting the violation. If the housing
45 ordinance or code provides that any form of prohibited tenant behavior
46 constitutes a violation by the owner or manager of the rental property, it shall
47 be deemed a correction of the tenant-related violation if the owner or manager,
48 within 30 days of receipt of written notice of the tenant-related violation, brings
49 a summary ejectment action to have the tenant evicted.

50 (d) ~~A county may levy a fee for residential rental property registration under subsection (c)~~
51 ~~of this section for those rental units which have been found with more than two verified violations~~

1 of housing ordinances or codes within the previous 12 months or upon the property being
2 identified within the top 10% of properties with crime or disorder problems as set forth in a local
3 ordinance. The fee shall be an amount that covers the cost of operating a residential registration
4 program and shall not be used to supplant revenue in other areas. Counties using registration
5 programs that charge registration fees for all residential rental properties as of June 1, 2011, may
6 continue levying a fee on all residential rental properties as follows:

- 7 (1) For properties with 20 or more residential rental units, the fee shall be no more
8 than fifty dollars (\$50.00) per year.
- 9 (2) For properties with fewer than 20 but more than three residential rental units,
10 the fee shall be no more than twenty five dollars (\$25.00) per year.
- 11 (3) For properties with three or fewer residential rental units, the fee shall be no
12 more than fifteen dollars (\$15.00) per year.

13 (e) If a property is identified by the county as being in the top ten percent (10%) of
14 properties with crime or disorder problems, the county shall notify the landlord of any crimes,
15 disorders, or other violations that will be counted against the property to allow the landlord an
16 opportunity to attempt to correct the problems. In addition, the county and the county sheriff's
17 office shall assist the landlord in addressing any criminal activity, which may include testifying in
18 court in a summary ejectment action or other matter to aid in evicting a tenant who has been
19 charged with a crime. If the county or the county sheriff's office does not cooperate in evicting a
20 tenant, the tenant's behavior or activity at issue shall not be counted as a crime or disorder problem
21 as set forth in the local ordinance, and the property may not be included in the top ten percent
22 (10%) of properties as a result of that tenant's behavior or activity.

23 (f) If the county takes action against an individual rental unit under this section, the owner
24 of the individual rental unit may appeal the decision to the housing appeals board or the zoning
25 board of adjustment, if operating, or the planning board if created under G.S. 153A-321, or if
26 neither is created, the governing board. The board shall fix a reasonable time for hearing appeals,
27 shall give due notice to the owner of the individual rental unit, and shall render a decision within a
28 reasonable time. The owner may appear in person or by agent or attorney. The board may reverse
29 or affirm the action, wholly or partly, or may modify the action appealed from, and may make any
30 decision and order that in the opinion of the board ought to be made in the matter."

31 **SECTION 2.** G.S. 160A-424 reads as rewritten:

32 **"§ 160A-424. Periodic ~~inspections~~ inspections for hazardous or unlawful conditions.**

33 (a) The inspection department may make periodic inspections, subject to the council's
34 directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or
35 structures within its territorial jurisdiction. However, when the inspection department determines
36 that a safety hazard exists in one of the dwelling units within a multifamily building, which in the
37 opinion of the inspector poses an immediate threat to the occupant, the inspection department may
38 inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition,
39 additional dwelling units in the multifamily building to determine if that same safety hazard exists.
40 Except as provided in subsection (b) of this section, the inspection department may make periodic
41 inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise
42 hazardous or unlawful conditions may exist in a residential building or structure. For purposes of
43 this section, the term "reasonable cause" means any of the following: (i) the ~~landlord or~~
44 ~~owner~~ property has a history of more than ~~two~~ four verified violations of the housing ordinances or
45 codes within a rolling 12-month period; (ii) there has been a complaint that substandard conditions
46 exist within the building or there has been a request that the building be inspected; (iii) the
47 inspection department has actual knowledge of an unsafe condition within the building; or (iv)
48 violations of the local ordinances or codes are visible from the outside of the property. In
49 conducting inspections authorized under this section, the inspection department shall not
50 discriminate between single-family and multifamily ~~buildings~~ buildings or between
51 owner-occupied and tenant-occupied buildings. In exercising this power, members of the

1 department shall have a right to enter on any premises within the jurisdiction of the department at
2 all reasonable hours for the purposes of inspection or other enforcement action, upon presentation
3 of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in
4 accordance with State fire prevention code or as otherwise required by State law.

5 (b) A city may require periodic inspections as part of a targeted effort to respond to
6 blighted or potentially blighted conditions within a geographic area that has been designated by
7 the city council. However, the total aggregate of targeted areas in the city at any one time shall not
8 be greater than one square mile or five percent (5%) of the area within the city, whichever is
9 greater. A targeted area designated by the city shall reflect the city's stated neighborhood
10 revitalization strategy and shall consist of property that meets the definition of a "blighted area" or
11 "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a),
12 respectively, except that for purposes of this subsection the planning commission is not required to
13 make a determination as to the property. ~~The municipality shall not discriminate in its selection of~~
14 ~~areas or housing types to be targeted and~~ city shall (i) provide notice to all owners and residents of
15 properties in the affected area about the periodic inspections plan and information regarding a
16 public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a
17 plan to address the ability of low-income residential property owners to comply with minimum
18 housing code standards. A residential building or structure that is subject to periodic inspections
19 by the North Carolina Housing Finance Agency (hereinafter "Agency") shall not be subject to
20 periodic inspections under this subsection if the Agency has issued a finding that the building or
21 structure is in compliance with federal standards established by the United States Department of
22 Housing and Urban Development to assess the physical condition of residential property. The
23 owner or manager of a residential building or structure subject to periodic inspections by the
24 Agency shall, within 10 days of receipt, submit to the inspection department a copy of the
25 Compliance Results Letter issued by the Agency showing that the residential building or structure
26 is in compliance with federal housing inspection standards. If the owner or manager fails to submit
27 a copy of the Compliance Results Letter as provided in this subsection, the residential building or
28 structure shall be subject to periodic inspections as provided in this subsection until the
29 Compliance Results Letter is submitted to the inspection department.

30 (c) In no event may a city do any of the following: (i) adopt or enforce any ordinance that
31 would require any owner or manager of rental property to obtain any permit or permission from
32 the city to lease or rent residential real ~~property, property~~ or to register rental property with the city,
33 except for those ~~properties~~ individual rental units that have either more than three-four verified
34 violations in a rolling 12-month period or two or more verified violations in a rolling 30-day
35 period, or upon the property being identified within the top 10%~~ten percent (10%)~~ of properties
36 with crime or disorder problems as set forth in a local ordinance; (ii) require that an owner or
37 manager of residential rental property enroll or participate in any governmental program as a
38 condition of obtaining a certificate of occupancy; ~~or (iii) except as provided in subsection (d) of~~
39 ~~this section,~~ (iii) levy a special fee or tax on residential rental property that is not also levied
40 against other commercial and residential ~~properties~~ properties, unless expressly authorized by
41 general law or applicable only to an individual rental unit or property described in subdivision (i)
42 of this subsection and the fee does not exceed five hundred dollars (\$500.00) in any 12-month
43 period in which the unit or property is found to have verified violations; (iv) provide that any
44 violation of a rental registration ordinance is punishable as a criminal offense; or (v) require any
45 owner or manager of rental property to submit to an inspection before receiving any utility service
46 provided by the city. For purposes of this section, the term "verified violation" means all of the
47 following:

- 48 (1) The aggregate of all violations of housing ordinances or codes found in an
49 individual rental unit of residential real property during a 72-hour period.
- 50 (2) Any violations that have not been corrected by the owner or manager within 21
51 days of receipt of written notice from the city of the violations. Should the same

1 violation occur more than two times in a 12-month period, the owner or
2 manager may not have the option of correcting the violation. If the housing
3 ordinance or code provides that any form of prohibited tenant behavior
4 constitutes a violation by the owner or manager of the rental property, it shall
5 be deemed a correction of the tenant-related violation if the owner or manager,
6 within 30 days of receipt of written notice of the tenant-related violation, brings
7 a summary ejectment action to have the tenant evicted.

8 (d) ~~A city may levy a fee for residential rental property registration under subsection (c) of~~
9 ~~this section for those rental units which have been found with more than two verified violations of~~
10 ~~local ordinances within the previous 12 months or upon the property being identified within the~~
11 ~~top 10% of properties with crime or disorder problems as set forth in a local ordinance. The fee~~
12 ~~shall be an amount that covers the cost of operating a residential registration program and shall not~~
13 ~~be used to supplant revenue in other areas. Cities using registration programs that charge~~
14 ~~registration fees for all residential rental properties as of June 1, 2011, may continue levying a fee~~
15 ~~on all residential rental properties as follows:~~

- 16 (1) ~~For properties with 20 or more residential rental units, the fee shall be no more~~
17 ~~than fifty dollars (\$50.00) per year.~~
18 (2) ~~For properties with fewer than 20 but more than three residential rental units,~~
19 ~~the fee shall be no more than twenty five dollars (\$25.00) per year.~~
20 (3) ~~For properties with three or fewer residential rental units, the fee shall be no~~
21 ~~more than fifteen dollars (\$15.00) per year.~~

22 (e) If a property is identified by the city as being in the top ten percent (10%) of properties
23 with crime or disorder problems, the city shall notify the landlord of any crimes, disorders, or
24 other violations that will be counted against the property to allow the landlord an opportunity to
25 attempt to correct the problems. In addition, the city and the city's police department or, if the city
26 has no police department, the county sheriff's office shall assist the landlord in addressing any
27 criminal activity, which may include testifying in court in a summary ejectment action or other
28 matter to aid in evicting a tenant who has been charged with a crime. If the city, the city's police
29 department, or where applicable the county sheriff's office does not cooperate in evicting a tenant,
30 the tenant's behavior or activity at issue shall not be counted as a crime or disorder problem as set
31 forth in the local ordinance, and the property may not be included in the top ten percent (10%) of
32 properties as a result of that tenant's behavior or activity.

33 (f) If the city takes action against an individual rental unit under this section, the owner of
34 the individual rental unit may appeal the decision to the housing appeals board or the zoning board
35 of adjustment, if operating, or the planning board, if created under G.S. 160A-361, or if neither is
36 created, the governing board. The board shall fix a reasonable time for hearing appeals, shall give
37 due notice to the owner of the individual rental unit, and shall render a decision within a
38 reasonable time. The owner may appear in person or by agent or attorney. The board may reverse
39 or affirm the action, wholly or partly, or may modify the action appealed from, and may make any
40 decision and order that in the opinion of the board ought to be made in the matter."

41 **SECTION 3.** This act becomes effective January 1, 2017.